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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,818	08/19/2003	Hans-Frieder Eberhardt	2001P14003WOUS	5163
46726	7590	04/20/2006	EXAMINER	
JOHN T. WINBURN 100 BOSCH BOULEVARD NEW BERN, NC 28562			GILLAN, RYAN P	
			ART UNIT	PAPER NUMBER

3746

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/643,818	Applicant(s) EBERHARDT ET AL.	
	Examiner Ryan P. Gillan	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,6,9-15 and 22-31 is/are pending in the application.
- 4a) Of the above claim(s) 2,9-15 and 22-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 is/are allowed.
- 6) ☒ Claim(s) 28, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by della Porta (4,938,667). Della Porta teaches a method for introducing and activating a getter in a vacuum vessel, which comprises: introducing the getter (328) packaged in a protective sleeve (322) into the vacuum vessel (300); closing off and evacuating the vacuum vessel (col. 2 lines 23-26); and opening the protective sleeve after the evacuation has commenced (Col.2 lines 32-35); which further comprises carrying out the opening of the protective sleeve by the action of an external pressure deforming the vacuum vessel during the evacuation to open the protective sleeve (col. 4 lines 43-45); which further comprises breaking the protective sleeve by contact with the vacuum vessel during the deformation of the vacuum vessel (col. 4 lines 43-45).

3. Claims 30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by TheiBen et al (4,704,068). TheiBen et al teach a getter unit, comprising: a getter (col. 2 lines 3-7); and a protective sleeve surrounding said getter (2), said protective sleeve being at least partly formed from a flexible film (clearly seen in figure 1); wherein said

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film is under prestress at surrounding atmospheric pressure (col. 2 lines 3-7); wherein said protective sleeve has at least one breaking point (col. 2 lines 10-14); wherein said protective sleeve being at least partly formed from a flexible film opened after the evacuation of the vacuum vessel has commenced (col. 2 lines 10-14).

Allowable Subject Matter

4. Claim 29 is allowed.

Response to Arguments

5. Applicant's arguments filed 1/30/06 have been fully considered but they are not persuasive with regard to claims 28, 30 and 31. The argument is made that della Porta (4,938,667), "does not disclose or suggest the breaking of the getter vessel with the walls of the vacuum vessel during evacuation thereof," however, according to della Porta, the getter material is exposed to a getterable purge gas during the vacuum process (col. 2 lines 17-35). The getter material can then be exposed through breaking of the getter vessel with the walls of the vacuum vessel (col. 4 lines 43-45).

6. The argument is also made that TheiBen et al. fails to "show or suggest such a breaking point, such as the breaking point 7 formed in the sleeve in Fig. 1b." It is not necessary to limit the breaking point in the sleeve to the one shown by the applicant. When giving the term "breaking point" its broadest reasonable interpretation it is only necessary to show that the sleeve will have a point where it breaks. Therefore, the sleeve taught by TheiBan et al. inherently has a breaking point because the sleeve is designed to burst or break (col. 2 lines 10-14).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan P. Gillan whose telephone number is 571-272-8381. The examiner can normally be reached on 8:30 am - 5:00 pm; Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Thorpe can be reached on 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RPG



TAE JUN KIM
PRIMARY EXAMINER